Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
Telephone Number Portability	)	
	)	
	)	CC Docket No. 95-116
CTIA Petitions for Declaratory Ruling on	)	
Wireline-Wireless Porting Issues	)	

COMMENTS

The South Dakota Telecommunications Association (SDTA),[1] Townes Telecommunications, Inc. (Townes)[2] and Dickey Rural Telephone Cooperative, (jointly referred to as the Companies), by their attorneys, hereby comment on the Commission's *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* (FNPRM)[3] concerning the implementation of wireless to wireline local number portability (LNP). For the reasons discussed below, the Commission should not adopt the proposals in the FNPRM.

I. Wireline Carriers Should Only Be Required To Accept Ports Within The Rate Center

In the FNPRM, the Commission asks for comment on the technical, regulatory and consumer impediments with requiring wireless-to-wireline LNP when the location of the wireline facilities serving the customer requesting the port is not the rate center where the

---

[1] SDTA represents thirty-one rural incumbent local exchange carriers (ILECs) in the state of South Dakota.
[2] Townes is comprised of seven rural ILECs serving areas in Arkansas, Colorado, Florida, Kansas, Missouri and Texas.
[3] Telephone Number Portability, CC Docket No. 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, FCC 03-284 (rel. Nov. 10, 2003) (FNPRM); *Order*, DA 03-4059 (rel. Dec. 22, 2003)(extending filing deadline).

wireless number is assigned. The Commission also seeks comment on whether the benefits associated with offering wireless-to-wireline porting would outweigh the costs associated with making any necessary upgrades and on the expected demand for wireless-to-wireline porting.

The Commission does not describe how it proposes to achieve the implementation of wireless to wireline porting. Therefore, the Companies do not discuss this issue in detail in these comments but will provide further comment on this issue in reply comments, if necessary.

In general, however, if the ported number remains in the original wireless rate center, there will be customer confusion and the incorrect rating and routing of calls. As explained by rural LECs in connection with wireline to wireless porting, for the most part, wireless carriers do not directly interconnect with rural LECs and they do not maintain numbers in the rural LECs' rate centers. Therefore, there are no facilities over which calls to and from ported numbers can be routed. In the case of a wireless number that is maintained in the wireless carrier's rate center and which is ported to a wireline carrier, calls to and from the ported number would be routed to a third carrier, such as an interexchange or toll carrier. Thus, the fundamental, egregious problem remains for wireless-to-wireline porting as was created by the Commission for wireline-to-wireless porting: The Commission fails to address how calls will be transported outside of the rate center, and how the carriers will be compensated for these arrangements.

II. <u>The Commission's Local Calling Area And FX Service Proposals Should Not Be Adopted</u>

The Commission also asks for comment on competitive issues that could affect the LNP requirements. In this regard, the Commission asks whether the wireline carrier should absorb the cost of allowing a customer with a ported number from a wireless carrier to maintain the same local calling area that the customer had with the wireless service provider. Alternatively, the Commission asks whether wireline carriers can serve customers with numbers ported from a wireless carrier on a Foreign Exchange (FX) or virtual FX basis. Neither of these proposals should be adopted.

The Commission does not explain how it believes the first proposal is at all related to the implementation of LNP and it is not clear to the Companies that it is. It is clear, however, that such a proposal is the antithesis of competition. In a competitive market, competitors are supposed to compete for customers based on the relative merits of their service offerings. The Commission acknowledges this when it states that "[e]ach type of service offers its own advantages and disadvantages (e.g., wireless service offers mobility and larger calling areas, but also the potential for dropped calls) and wireline customers will consider these attributes in determining whether or not to port their number."[4] Similarly, wireless customers that seek to port their numbers to wireline carriers should do so based on the attributes of the wireline service, including the wireline service calling scope. In addition, the proposal would result in discriminatory rates and services because wireline customers with ported wireless numbers would receive services at rates not available to similarly situated customers with wireline numbers. Moreover, the other wireline customers would be <u>subsidizing</u> the service provided to customers with ported wireless numbers because the cost of providing expanded calling areas to some customers would be recovered from the carriers' remaining customers. The Companies emphasize that they object to a Commission <u>requirement</u> that carriers subsidize the service of certain customers to encourage porting, which is distinct from providing regulatory flexibility to allow carriers to respond to competitive pressures.

The FX proposal suffers from the same infirmities. As an initial matter, the Companies do not offer a "virtual FX" service and it is not clear what the Commission believes such a

[4] FNPRM at ¶27.

service would entail. However, a virtual service would seem to imply that it would not require the construction of facilities and, as described herein, it is the lack of facilities between the wireless carrier and wireline carrier that prevents the proper handling of calls to and from ported numbers.

With facilities-based FX service, the LEC provides service to a customer in a distant rate center using the number block associated with one of its own rate centers by extending facilities between the two rate centers <u>and the customer pays for the facilities and service provided</u>. If the Commission is suggesting that certain customers should be allowed to subscribe to FX service without paying for it, then this proposal also would result in discriminatory treatment of similarly situated customers and in wireline customers subsidizing the service of other wireline customers (those with ported wireless numbers). In any event, the Commission has found that for wireline to wireless LNP, the LNP requirement in the Act does not include establishing interconnection. In light of this finding, it is hard to understand how the Commission could find that wireline carriers should be required to construct facilities for the purpose of interconnection in the name of wireless to wireline portability.

The Commission also asks whether wireline carriers should seek rate design and rate center changes at the state level to establish larger wireline local calling areas. Wireline carriers should make the determination to re-design their rates and seek rate center changes based on their own circumstances. It is not clear what the Commission believes this proposal would accomplish since there is no assurance that carriers requiring state permission would receive permission to re-design rates and change rate centers even if they asked, and the Companies respectfully suggest that the Commission itself lacks jurisdiction to implement this proposal under the Communications Act of 1934, as amended. In any event, the only case where this might make sense would be if the wireline calling area could be increased to match the wireless calling area. This is not possible, though, since the wireless Cellular Geographic Service Area (CGSA) oftentimes spans the service territory of multiple incumbent LECs and sometimes multiple states. Moreover, existing wireline exchange boundaries and wireless CGSAs will never match because CGSAs are dictated by the very nature of RF propagation and wireline exchange boundaries follow from geography and regulation.

The Commission's order requiring wireline to wireless portability where the wireless carrier does not have interconnection or numbers in the rate center creates a competitive disparity in the implementation of LNP in light of the larger local calling areas of wireless carriers. Accordingly, the Companies maintain that the Commission should not have ordered wireline to wireless LNP until the competitive disparity was addressed. The above proposals do not address the disparity.

III. <u>The Porting Interval Should Not Be Reduced For Rural Telephone Companies</u>

The Commission seeks comment on whether the current porting interval for wireline carriers of four days should be reduced for intermodal porting, noting that wireless carriers purportedly intend to complete intramodal wireless ports within two and one-half hours. As an initial matter, it is not clear that even wireless carriers can meet a two and one-half hours porting interval. And, there is no comparison between porting for wireless carriers and wireline carriers because, whereas a wireless customer can bring its wireless phone to the carrier's location to implement porting, with wireline porting the wireline carrier must program its facilities and may actually have to send a truck to the site to physically assign facilities or disconnect facilities.

In any event, the Commission should not reduce the porting interval for rural telephone companies (RLECs), as defined by the Act. Most RLECs have little, if any, experience with porting at the four-day interval and they need real-world experience with the procedures required for porting before they can determine whether it can be done faster. The accuracy of ports and the integrity of the public switched network and other systems (such as 911) should not be jeopardized for the sake of speed.

In addition, a two and one-half hours porting timeframe is simply not reasonable for RLECs. RLECs do not have customized, automated LNP support systems due to the small amount of LNP activity. In order to meet a shorter porting interval, RLECs would incur substantial costs that would ultimately have to be passed on to the consumer. The current four day porting interval would reduce the requirements on staffing (by allowing the RLECs to utilize existing staff rather than requiring dedicated staff for number porting activities) and on operational support systems (by allowing RLECs to utilize an economic mixture of automated and manual tools for implementation of number porting processes) and therefore reduce the overall cost to the RLEC and its subscribers.

In October of 1998, the North American Numbering Council (NANC) issued their recommendations on the processes and responsibilities required for service provider portability. The major wireline carriers and CMRS carriers have developed their own highly automated processes that incorporate the procedures outlined in the NANC documentation. In addition, these large service providers have dedicated business units staffed to accommodate the thousands of number ports that they generate (or receive) on a daily basis. The NANC Inter-Service Provider LNP Operations Flow Chart is attached as Appendix 1.

As detailed in the LNP process, the NSP (in this case the RLEC) must complete the first portion of the requisite paperwork to port the telephone number (Steps 1-4). Most larger companies (both CMRS and wireline carriers) can generate these forms using an automated electronic process customized for their unique OSS requirements and staffed for their unique level of activity for number ports. In Step 5, the RLEC informs the OSP (in this case a wireless carrier) that a number port is being requested. As transport facilities do not exist, it is highly unlikely that a RLEC will have an integrated electronic interface into the CMRS carrier's OSS system and thus will have to rely on another form of delivery, such as fax.

The RLEC will need to schedule resources to accommodate the number port activities. Since the RLEC typically receives very few number port requests, a number of departments (Management, COE, Customer Service, Billing, E911 Coordinator, Operator Services Coordinator, etc.) in a RLEC will need to coordinate manpower and resources to accommodate the number port.

This process simply deals with the inter-service provider communication documents. In addition to this, the RLEC must also update some or all of the following:

- Service Order Systems – The service order must be generated to perform the required provisioning on the telephone switch.
- Work Force Assignment – The staff required to perform the equipment provisioning operations must be allocated.
- Switch Translations – The Rural LEC must perform translations on the telephone switch to ensure local calls are handled properly.
- Inventory Systems – The systems used to manage and track resources, equipment, and telephone numbers must be updated.
- Billing Systems – The billing system must be updated to account for the loss of the customer and the porting of the number.
- Maintenance Systems – The maintenance systems must be updated to enable quality trouble resolution.
- Carrier Access Billing Systems (CABS) – CABS processing must be verified to assume that the appropriate carriers are being billed for the appropriate traffic.
- E911 Systems – The E911 systems must be updated to ensure accurate customer data.

The RLEC also may have to install or upgrade the line to the customer's premises.

Based on the small quantity of number ports performed by the RLECs, the increased cost of adding additional dedicated number porting staff, and the increased cost of implementing tightly integrated OSS systems, is not reasonable. Accordingly, the Commission should not reduce the porting interval for RLECs at this time.

IV. <u>Conclusion</u>

Based on the foregoing, the Companies urge the Commission not to adopt the proposals in the FNPRM.

Respectfully submitted,

SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION
TOWNES TELECOMMUNICATIONS, INC.
DICKEY RURAL TELEPHONE COOPERATIVE

By /s/ ______________________

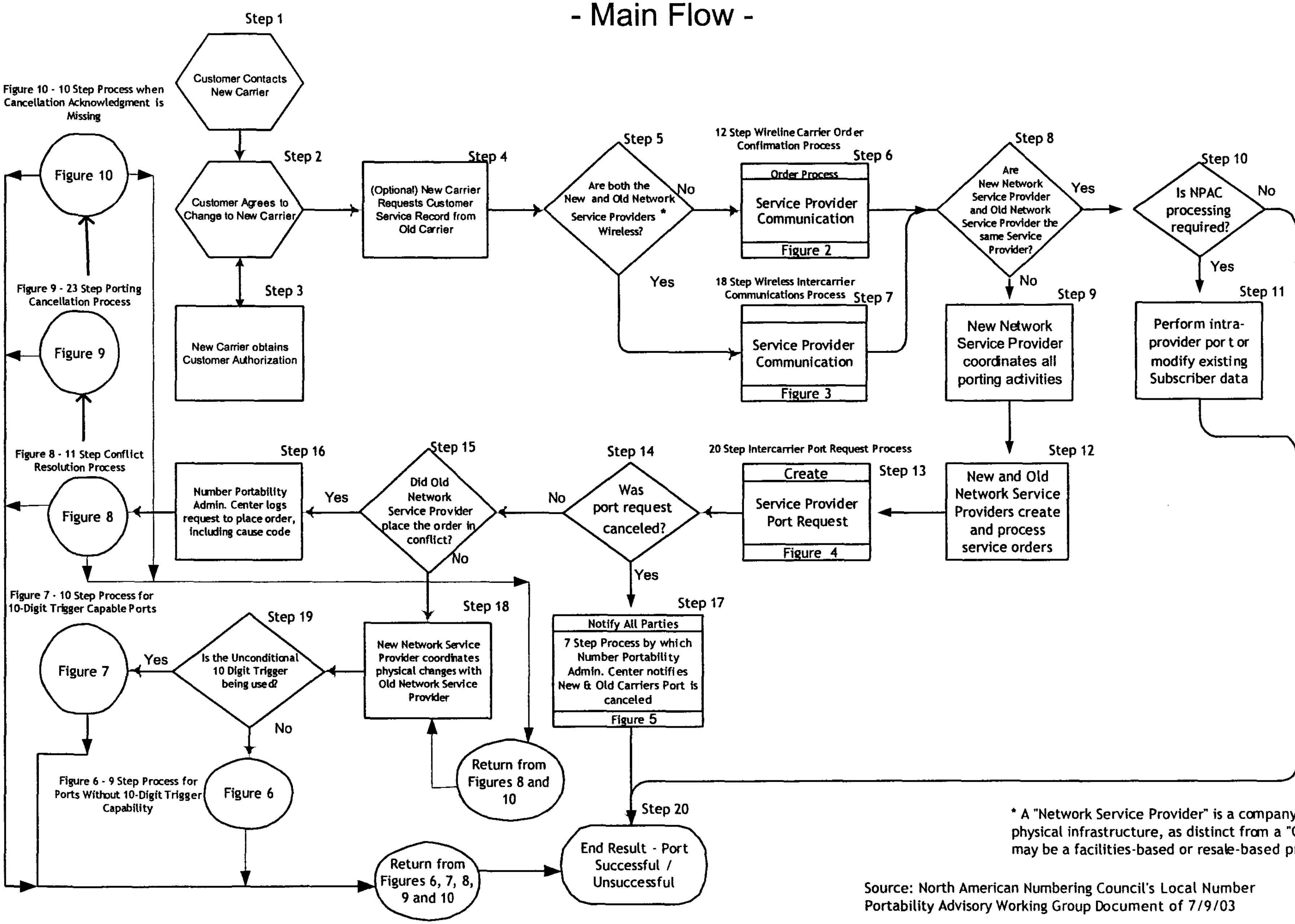
Benjamin H. Dickens, Jr.
Mary J. Sisak
Blooston, Mordkofsky, Dickens, Duffy & Prendergast
2120 L Street, NW Suite 300
Washington, DC 20037
(202) 659-0830
Their Attorneys

Richard D. Coit, General Counsel
South Dakota Telecommunications Association
P.O. Box 57
Pierre, SD 57501
(605) 224-7629

Dated: January 20, 2004

APPENDIX 1

Inter-Service Provider LNP Operations Flows
- Main Flow -



* A "Network Service Provider" is a company that provides physical infrastructure, as distinct from a "Carrier" which may be a facilities-based or resale-based provider.

Source: North American Numbering Council's Local Number Portability Advisory Working Group Document of 7/9/03

Note: Some terms have been modified for ease of understanding

Figure 1